

3 FAH-1 H-3670 PROCEDURES FOR REASONABLE ACCOMMODATION

*(CT:POH-148; 07-07-2011)
(Office of Origin: HR/ER/DRAD)*

3 FAH-1 H-3671 MEDICAL DOCUMENTATION IN SUPPORT OF THE REASONABLE ACCOMMODATION REQUEST

3 FAH-1 H-3671.1 General Provisions Governing Requesting Medical Documentation

*(CT:POH-148; 07-07-2011)
(State Only)
(Applies to Foreign Service and Civil Service Employees)*

- a. If an employee or applicant requests a reasonable accommodation, the Department is entitled to know that an employee or applicant has a covered disability that requires a reasonable accommodation. It may, therefore, request appropriate medical information related to the functional impairment and the requested accommodation where the disability and/or need for accommodation is not obvious or already known. For purposes of these FAH provisions and corresponding FAM provisions, the Department has designated the Office of Medical Services Occupational Health Division of Domestic Programs (MED/OH/DP) as its medical expert. MED/OH/DP may, in its discretion, choose to have the medical information reviewed by a medical professional at the Department's expense.
- b. The Bureau of Human Resources Office of Employee Relations Disability/Reasonable Accommodation Division (HR/ER/DRAD) may request appropriate medical information related to the functional impairment at issue in conjunction with a reasonable accommodation request if HR/ER/DRAD, in consultation with MED/OH/DP, deems the medical information necessary to determine if the individual is disabled or to evaluate a request for reasonable accommodation. No other Department office should initiate such a request. The request may be

made to the individual or a third party (see 3 FAM 3672.3, paragraph f,) making the reasonable accommodation request on behalf of the individual.

- c. HR/ER/DRAD will instruct all individuals requesting accommodation to submit responsive medical documentation directly to MED/OH/DP for review and consideration.
- d. HR/ER/DRAD will request only the documentation that is needed to establish that the person has a disability and that the disability necessitates a reasonable accommodation. The request should specify what types of information are needed regarding the disability, its functional limitations, and the need for reasonable accommodation. A request for medical documentation should also describe the nature of the employee's position, the functions the individual is expected to perform, and any other relevant information.
- e. Individuals may be asked to complete a Form DS-6546, Medical Questionnaire for Assessment of Disability/Reasonable Accommodation, and to submit the completed form directly to the Chief of Domestic Programs in the Office of Medical Services (MED/OH/DP).
- f. While MED assists HR/ER/DRAD in interpreting the medical information, MED recommendations as to whether any particular accommodation request should be granted are advisory only and do not constitute a decision on behalf of the Department as to whether the request for reasonable accommodation will or will not be granted.

3 FAH-1 H-3671.2 Sufficient Medical Documentation

(CT:POH-148; 07-07-2011)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

- a. Documentation is sufficient if it:
 - (1) Describes the nature, severity, and duration of the individual's impairment; the activity or activities that the impairment limits; and the extent to which the impairment limits the individual's ability to perform the activity or activities; and
 - (2) Substantiates why the individual requires either a reasonable accommodation in general or a specific accommodation, and how the specific accommodation requested would permit the individual

- to perform the essential functions of the job or enjoy a benefit of the workplace.
- b. The Department may request only the information that is relevant to making a decision about reasonable accommodation.
 - c. The Department should provide the following information to the employee, the Bureau of Human Resources Office of Employee Relations Disability/Reasonable Accommodation Division (HR/ER/DRAD), and the Office of Medical Services Occupational Health Division of Domestic Programs (MED/OH/DP):
 - (1) The nature of the job;
 - (2) The essential functions of the job the individual will be expected to perform; and
 - (3) Any other information that is relevant to evaluating the request.

3 FAH-1 H-3671.3 Insufficient Medical Documentation

(CT:POH-148; 07-07-2011)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

- a. Documentation is insufficient if:
 - (1) It does not clearly explain the nature of the disability;
 - (2) It does not explain the need for the reasonable accommodation;
 - (3) It does not otherwise clarify how the requested accommodation will assist the individual to perform the essential functions of the job or to enjoy the benefits and privileges of the workplace;
 - (4) The health care professional does not have the expertise to give an opinion about the individual's medical condition and the limitations imposed by it; or
 - (5) Other factors indicate that the information provided is not credible or is fraudulent.
- b. If the information provided by the individual and the individual's representative and/or health professional is insufficient to enable the Bureau of Human Resources Office of Employee Relations

Disability/Reasonable Accommodation Division (HR/ER/DRAD) to determine whether an accommodation is appropriate, HR/ER/DRAD may ask for further information. However, HR/ER/DRAD should explain to the individual why the information is insufficient; what additional information is needed; and why it is necessary. HR/ER/DRAD and the Office of Medical Services Occupational Health Division of Domestic Programs (MED/OH/DP) can determine what information is necessary. The individual requesting the accommodation can also sign a limited release allowing MED/OH/DP to communicate directly with the individual's health care professional.

- c. If there is insufficient information to demonstrate that the individual has a disability and needs a reasonable accommodation, HR/ER/DRAD may request that the individual be examined by a physician chosen by the Department. If this course of action is taken, HR/ER/DRAD must pay for the examination.
- d. Until sufficient documentation is provided, HR/ER/DRAD may decline to provide the requested reasonable accommodation.

3 FAH-1 H-3671.4 Confidentiality of Medical Information

3 FAH-1 H-3671.4-1 Legal Authorities

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(State Only)

(Applies to Foreign Service and Civil Service Employees)

Medical information maintained by the Department is subject to confidentiality requirements. These include, inter alia:

- (1) The Rehabilitation Act of 1973: Under the Rehabilitation Act of 1973, medical information the Department receives in connection with the reasonable accommodation process must be safeguarded from unauthorized disclosure. Any Department of State employee receiving information in connection with a request for reasonable accommodation may share that information with other agency employees if, and only if, those employees have a genuine and official need to know in order to assess or implement the reasonable accommodation request; and
- (2) The Privacy Act of 1974, as amended; 5 U.S.C. 552a et seq.; and Federal regulations at 29 CFR 1611. The Department's requirements to comply with the Privacy Act, with regard to all

personal information gathered by the Department, are discussed at 5 FAM 460.

3 FAH-1 H-3671.4-2 Confidentiality Obligations

(CT:POH-148; 07-07-2011)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

- a. Records pertaining to a request for reasonable accommodation, whether in paper or electronic format, may not, absent other legal authority, become part of an employee's personnel file.
- b. Under the Rehabilitation Act of 1973, medical information obtained in connection with the reasonable accommodation process must be safeguarded from disclosure. The following limited exceptions permit disclosure of such confidential medical information to:
 - (1) Supervisors and managers where they need medical information in order to abide by an employee's work restrictions;
 - (2) First aid and safety personnel if an employee would need emergency treatment or require some other assistance (such as help during an emergency evacuation) because of a disabling condition;
 - (3) U.S. Government officials or other authorized individuals investigating compliance with the Rehabilitation Act and with similar State and local laws; and
 - (4) To a State's workers compensation office in order to evaluate a claim pursuant to workers compensation laws, or for insurance purposes.
- c. Relevant laws and regulations should be consulted before any release of medical information occurs. Whenever medical information is disclosed, the individual disclosing the information should inform the recipients of the confidentiality requirements that attach to it.

3 FAH-1 H-3672 INFORMATION TRACKING AND REPORTING

3 FAH-1 H-3672.1 Retention of Medical

Information Supplied in Connection with a Request for Reasonable Accommodation

(CT:POH-148; 07-07-2011)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

The Office of Medical Services Occupational Health Division of Domestic Programs (MED/OH/DP) will maintain all records of medical information obtained in the course of reasonable accommodation requests, for the duration of the requesting individual's employment.

3 FAH-1 H-3672.2 Retention of All Non-Medical Information Supplied in Connection with a Request for Reasonable Accommodation

(CT:POH-148; 07-07-2011)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

The Bureau of Human Resources Office of Employee Relations Disability/Reasonable Accommodation Division (HR/ER/DRAD) will maintain all other records pertaining to reasonable accommodation requests for 3 years after employee separation from the agency or all appeals are concluded, whichever is later. HR/ER/DRAD's records will include any nonmedical documentation of the individual's disability or need for reasonable accommodation, as well as information about the disposition of that individual's accommodation request.

3 FAH-1 H-3672.3 Collection of Statistical Information Related to Requests for Reasonable Accommodation

(CT:POH-148; 07-07-2011)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

The Bureau of Human Resources Office of Employee Relations Disability/Reasonable Accommodation Division (HR/ER/DRAD) will maintain documentation, for at least a revolving 5-year period, sufficient to ascertain the following information:

- (1) Number and types of reasonable accommodations that have been

requested during the course of application for a Foreign Service or Civil Service position and whether those requests have been granted or denied;

- (2) Jobs (occupational series, grade level, and agency component) for which reasonable accommodations have been requested;
- (3) Types of reasonable accommodations that have been requested for each of those jobs;
- (4) Number and types of reasonable accommodations for each job, by agency component, that have been approved, and the number and types that have been denied;
- (5) Number and types of requests for reasonable accommodations that relate to the benefits or privileges of employment, and whether those requests have been granted or denied;
- (6) Reasons for denial of requests for reasonable accommodation;
- (7) Amount of time taken to process each request for reasonable accommodation; and
- (8) Sources of technical assistance that have been consulted in trying to identify possible reasonable accommodations.

HR/ER/DRAD will make such information available to the Equal Employment Opportunity Commission (EEOC) upon request. Upon request, relevant and available information may also be provided to the exclusive representative for bargaining unit employees they represent.

3 FAH-1 H-3672.4 Periodic Review of Statistical Information Related to Requests for Reasonable Accommodation

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(State Only)

(Applies to Foreign Service and Civil Service Employees)

- a. The Office of Civil Rights (S/OCR) will engage in a periodic review of the data compiled by the Bureau of Human Resources Office of Employee Relations Disability/Reasonable Accommodation Division (HR/ER/DRAD) to ascertain, inter alia, the following:

- (1) How long, on average, it takes the Department to respond to requests for different types of reasonable accommodations;

- (2) Whether there are particular types of reasonable accommodations that the Department has been unable to provide;
 - (3) Whether there are identifiable trends in denying requests for reasonable accommodations; and
 - (4) What the reasons for denial have been.
- b. Following the periodic review, the Director of S/OCR may provide conclusions and recommendations to the Director General (DGHR) regarding strengths and weaknesses in the Department's reasonable accommodation program and make suggestions for improving the program. Such documentation will be retained in S/OCR for 3 years.

3 FAH-1 H-3673 THROUGH H-3679 UNASSIGNED